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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

Kumar v. Salov North America Corp.

Theodore H. Frank,
Objector.

Case No. 4:14-cv-02411-YGR

DECLARATION OF THEODORE H. FRANK

Judge: Hon. Yvonne Gonzalez Rogers
Courtroom: 1
Date: May 30, 2017
Time: 2:00 P.M.

Theodore H. Frank declares as follows:

1. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

Class Membership

2. My full name is Theodore Harold Frank. My business address is Competitive Enterprise Institute, 1310 L Street NW, 7th Floor, Washington, DC 2005. My telephone number is (202) 331-2263. My email address is ted.frank@cei.org. I am a United States resident, currently domiciled in Washington, D.C. I am a member of the California bar.

3. The only brands of olive oil I can recall ever purchasing in my life is Filippo Berio Extra Virgin Olive Oil or Filippo Berio Olive Oil. I buy it because Filippo Berio is the brand I grew up with, and it is frequently on sale in supermarkets.

4. Between May 23, 2010, and May 31, 2013, I purchased one or two bottles of Filippo Berio Extra Virgin Olive Oil or Filippo Berio Olive Oil. The purchase or purchases were made either at Giant in Arlington, Virginia; Harris Teeter in Arlington, Virginia; Safeway in Arlington, Virginia; Wal-Mart in Fairfax, Virginia; or Wegmans in Fairfax, Virginia.

5. Between October 8, 2013, and December 31, 2013, I purchased a bottle of Filippo Berio Extra Virgin Olive Oil or Filippo Berio Olive Oil to stock my new house in Houston, Texas. The purchase was most likely made either at Kroger in Houston, Texas; or H*E*B in Houston, Texas. It is also possible that I purchased it at Randall's in Houston, Texas; or Central Market in Houston, Texas. It is possible that I finished that bottle and purchased a second bottle of Filippo Berio Olive Oil in 2014 or early 2015 at one of those four grocery stores.

6. Whether I purchased one bottle or two bottles in Houston, Texas, I gave the most recently purchased bottle of to my parents in 2016 when I moved to Washington, D.C. On information and belief, my parents still have the bottle, which has the pre-2015 label. My mother took a photo of the bottle on April 24, 2017. A true and correct copy of that photo is attached as Exhibit 1.

7. My most recent purchase of Filippo Berio Extra Virgin Olive Oil for my household in Washington, D.C., was after the class period, and has the changed label that just says "Imported." I did not realize the label had changed until I became aware of this litigation in February 2017.

8. Though I am a member of the class, and have the same alleged damages as every other class member, the claims process in this case does not permit me to submit a claim form, because it requires me to make the statement "If the Products had not included the phrase 'Imported from Italy' on the label, I would not have made the purchase(s) or paid the price(s) charged" under penalty of perjury. I did not understand the sentence, because it is not grammatically correct: it is unclear if the sentence means "I would either not have made the purchase or not paid the price charged" or if the sentence means "I would neither have made the purchases nor paid the price charged." If it is the latter meaning, which is what I first thought it meant when I first saw the claim form on February 27, 2017, I cannot attest to it under penalty of perjury, because I would have purchased the bottle anyway, and I would attribute no meaning to "Imported from Italy" puffery without an A.O.C. designation. If it is the former meaning, which I thought of for the first time while composing this paragraph in this declaration, I cannot attest to it under penalty of perjury, because, as best I can tell, I have no personal knowledge that the label affected the price of the olive oil. The claim form is designed to prevent me from making a claim, and I have not made a claim using the claim form on the settlement website, as I take the jurat seriously.

9. I am not an officer, director, employee, legal representative, heir, successor, or assign of the defendant. I am not a judge to whom the actions are assigned, a mediator of the action, or member of the immediate family of such a mediator or judge. I have not settled individual claims substantially similar to those alleged in the litigation, nor have I submitted a request for exclusion in this case.

10. I am thus a member of the proposed settlement class with standing to object.

11. The only attorney representing me in this court is Will Chamberlain, who will appear on my behalf at the final approval hearing. Other CEI attorneys, including Adam Schulman, M. Frank Bednarz, Melissa Holyoak, and Anna St. John have discussed the case with Will and me and may have edited his briefs and engaged in correspondence with counsel for the settling parties, but CEI attorneys are paid a salary by CEI, and those salaries are not affected by their success or failure in this case.

12. The Long Form Notice requirements for objection, adopted by reference in the Preliminary Approval Order, are incomprehensible. The Long Form Notice lists items (vii), (viii), and (ix) that are required to be included, but does not list items (i) through (vi). We have attempted to comply with the burdensome requirements found in three different places, but may have inadvertently omitted something immaterial. The Long Form Notice seems to be designed to deter objections from happening and raise the costs of objection to non-profit objectors like me.

The Center for Class Action Fairness

13. I founded the Center for Class Action Fairness (the "Center" or "CCAF"), a 501(c)(3) non-profit public-interest law firm based out of Washington D.C., in 2009. In 2015, we merged into the non-profit Competitive Enterprise Institute ("CEI") in Washington, D.C.

14. The Center's mission is to litigate on behalf of class members against unfair class action procedures and settlements, and it is has won millions of dollars for class members. The Center's work in this and other cases has won class members millions of dollars and has received national acclaim. *See, e.g.*, Gina Passarella, *Third Circuit Vacates $18.5 Mil. Cy Pres Award in Baby Products Class Action*, L. INTELLIGENCER (Feb. 20, 2013); Adam Liptak, *When Lawyers Cut Their Clients Out of the Deal*, N.Y. TIMES (Aug. 13, 2013) (calling me "the leading critic of abusive class action settlements"); Jeffrey B. Jacobson, *Lessons From CCAF on Designing Class Action Settlements*, Law360 (Aug. 6, 2013) (discussing Center's track record); Ashby Jones, *A Litigator Fights Class-Action Suits*, WALL ST. J. (Oct. 31, 2011).

15. The Center has been successful, winning reversal or remand in fourteen federal appeals decided to date. *In re Target Data Breach Litig.*, -- F.3d --, No. 15-3912 (8th Cir. Feb. 1, 2017); *In re Walgreen Co. Stockholder Litig.*, 832 F.3d 718 (7th Cir. 2016); *In re EasySaver Rewards Litig.*, No. 13-55373 (9th Cir. Mar. 19, 2015) (unpublished); *In re BankAmerica Corp. Secs. Litig.*, 775 F.3d 1060 (8th Cir. 2015); *Pearson v. NBTY, Inc.*, 772 F.3d 778 (7th Cir. 2014); *Redman v. RadioShack Corp.*, 768 F.3d 622 (7th Cir. 2014); *In re MagSafe Apple Power Adapter Litig.*, Nos. 12-15757, 12-15782, 2014 U.S. App. LEXIS 7708 (9th Cir. Apr. 24, 2014) (unpublished); *In re Dry Max Pampers Litig.*, 724 F.3d 713 (6th Cir. 2013); *In re HP Inkjet Printer Litigation*, 716 F.3d 1173 (9th Cir. 2013); *In re Baby Products Antitrust Litigation*, 708 F.3d 163 (3d Cir. 2013); *Dewey v. Volkswagen*, 681 F.3d 170 (3d Cir.

2012); *Robert F. Booth Trust v. Crowley*, 687 F.3d 314 (7th Cir. 2012) ; *Nachshin v. AOL, LLC*, 663 F.3d 1034, 1039 (9th Cir. 2011); *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935 (9th Cir. 2011).

16. The Long Form Notice and the Settlement Agreement requires that an objection "must include . . . a detailed list of any other objections submitted by the Settlement Class Member, or his/her counsel, to any class actions submitted in any state or federal court in the United States in the previous five years . . . ." I object to this provision as unduly burdensome and irrelevant and designed to frustrate class members' Rule 23(e) rights.

17. My counsel is Will Chamberlain, a recent CEI hire who has previously submitted only one *pro se* objection. To the extent that my counsel is considered CEI, or that my work for CCAF or CEI counts as an objection, I provide this overbroad list of CCAF and CEI objections, including those that were made before 2012. I also include cases where CEI, CCAF, or I represented objectors on appeal even if we did not make the objection in the district court.

Class Action Objections

18. In 2008, before I started CCAF, I objected *pro se* (after dismissing the attorney I initially retained) to the class action settlement in *In re Grand Theft Auto Video Game Consumer Litigation*, No 1:06-md-1739 (SWK) (S.D.N.Y.) because of the disproportionate recovery it gave to class counsel against the class. The district court refused to certify the class and approve the settlement. 251 F.R.D. 139 (S.D.N.Y. 2008).

19. The highly-publicized success of my *Grand Theft Auto* objection caused class members victimized by other bad class action settlements to contact me to see if I could represent them. I started the Center for Class Action Fairness in 2009 to respond to this demand.

20. Through CCAF and CEI, I have represented clients or myself, or supervised CCAF and CEI attorneys, in the following objections to settlements or fee requests, which I color-code as green for successful or partially successful; red for unsuccessful; and white for pending without interim success. Note that some cases involve multiple objections to multiple iterations of the settlement. Unless otherwise indicated, we did not receive payment If I did not make an appearance in the case at the district court or appellate level, but merely supervised and had authority over a CCAF attorney, I indicate as such.

Case	Result
In re Bluetooth Headset Products Liability Litigation, Case No 2:07-ML-1822-DSF-E (C.D. Cal.)	District court approved the settlement and fee request. On appeal, the Ninth Circuit vacated, 654 F.3d 935 (9th Cir. 2011). On remand, the district court approved the settlement and reduced fees from $800,000 to $232,000. We did not appeal again, and received no payment.
In re TD Ameritrade Account Holder Litigation, Case No C 07-2852 VRW (N.D. Cal.)	The objection was successful and the district court rejected the settlement. 2009 U.S. Dist. LEXIS 126407 (N.D. Cal. Oct. 23, 2009). A substantially improved settlement was approved.
Fairchild v. AOL, Case No 09-cv-03568 CAS (PLAx) (C.D. Cal.)	The trial court approved the settlement and fee request. The Center appealed and in November, 2011, the Ninth Circuit reversed, sustaining the Center's objection to the improper *cy pres*. *Nachshin v. AOL, LLC*, 663 F.3d 1034 (9th Cir. 2011). On remand, the parties cured the abusive *cy pres*.
In re Yahoo! Litigation, Case No 06-cv-2737 CAS (FMOx) (C.D. Cal.)	The district court approved the settlement and fee request. I withdrew from representations of my clients during the appeal, and my former clients chose to voluntarily dismiss their appeal. I received no payment. I believe the appeal was meritorious and would have prevailed and that the plaintiffs' tactic of buying off my clients at the expense of the class was unethical.
True v. American Honda Motor Co., Case No. 07-cv-00287 VAP (OPx) (C.D. Cal.)	The objection was successful and the district court rejected the settlement. 749 F. Supp. 2d 1052 (C.D. Cal. 2010). The parties negotiated a substantially improved settlement in California state court, winning the class millions of dollars more in benefit. CCAF attorney Frank Bednarz appeared for the objector *pro hac vice*.
Lonardo v. Travelers Indemnity, Case No. 06-cv-0962 (N.D. Ohio)	The parties in response to the objection modified the settlement to improve class recovery from $2.8M to $4.8M while reducing attorneys' fees from $6.6M to $4.6M and the district court approved the modified settlement and awarded CCAF about $40,000 in fees. 706 F. Supp. 2d 766 (N.D. Ohio 2010). The "Court is convinced that Mr. Frank's goals are policy-oriented as opposed to economic and self-serving." *Id.* at 804. We did not appeal, and received no payment beyond that ordered by the court.
In re Motor Fuel Temperature Sales Practices Litigation, Case No. 07-MD-1840-KHV (D. Kan.)	We objected to the settlement with Costco; the district court rejected the settlement, but approved a materially identical one after our renewed objection. CCAF has also objected to several other settlements (including several with me as the objector), and those objections are pending. An appeal to the Tenth Circuit is pending.
Bachman v. A.G. Edwards, Cause No: 22052-01266-03 (Mo. Cir. Ct.)	The district court approved the settlement and fee request, and the decision was affirmed by the intermediate appellate court. The Missouri Supreme Court declined further review.

Case	Result
Dewey v. Volkswagen, Case No. 07-2249(FSH) (D.N.J.)	We objected on behalf of multiple class members, including a law professor. The district court approved the settlement, but reduced the fee request from $22.5 million to $9.2 million. CCAF appealed and the settling parties cross-appealed the fee award. On appeal, the Third Circuit sustained CCAF's objection to the Rule 23(a)(4) determination and vacated the settlement approval. 681 F.3d 170 (3d Cir. 2012). On remand, the parties modified the settlement to address CCAF's objection and make monetary relief available to hundreds of thousands of class members who had been frozen out by the previous settlement. The district court awarded CCAF $86,000 in fees. Other objectors appealed and we defended the district court's settlement approval on appeal. The Third Circuit affirmed the settlement approval and the Supreme Court denied *certiorari*. We received no payment beyond that authorized by the court.
In re Apple Inc. Securities Litig., Case No. C-06-5208-JF (N.D. Cal.)	As a result of CCAF's objection, the parties modified the settlement to pay an additional $2.5 million to the class instead of third-party *cy pres*. The district court awarded attorneys' fees to CCAF and approved the settlement and fee request. We did not appeal and received no payment beyond that authorized by the court.
Robert F. Booth Trust v. Crowley, Case No. 09-cv-5314 (N.D. Ill.) (Rule 23.1) (*pro se* objector)	The district court denied my motion to intervene and dismiss abusive shareholder derivative litigation that sought $930,000 in fees, and then rejected the proposed settlement. I appealed. On appeal, the Seventh Circuit agreed (1) that my motion to intervene should have been granted and (2) my motion to dismiss should have been granted, and remanded with orders to dismiss the litigation. 687 F.3d 314 (7th Cir. 2012). As a result, Sears shareholders saved $930,000 in attorneys' fees. I was awarded a few hundred dollars in costs.
In re Classmates.com Consolidated Litigation, Case No. 09-cv-0045-RAJ (W.D. Wash.)	We objected on behalf of law professor Michael Krauss. The district court granted CCAF's objection and rejected the settlement. The parties proposed an improved settlement, and the district court sustained our renewed objection to the settlement. The parties modified the settlement again to pay class members over $2 million more than the original settlement, and the district court agreed with CCAF that the fee request was excessive, reducing the fee request from $1.05 million to $800,000. The district court praised CCAF's work and sanctioned plaintiffs $100,000 (awarded to the class) for its abusive discovery of objectors. 2012 U.S. Dist. LEXIS 83480 (W.D. Wash. Jun. 15, 2012). CCAF did not appeal and did not receive any payment.
Ercoline v. Unilever, Case No. 10-cv-1747 (D. N.J.) (*pro se* objector)	The district court approved the $0 settlement and fee request. I did not appeal, and neither I nor CCAF received any payment.

Case	Result
In re HP Inkjet Printer Litigation, Case No. 05-cv-3580 (N.D. Cal.) (*pro se* objector)	The district court approved the settlement and reduced the fee request from $2.3 million to $1.5 million. On appeal, the Ninth Circuit vacated the settlement approval and fee award. 716 F.3d 1173 (9th Cir. 2013). On remand, the district court again approved the settlement and reduced the fee request to $1.35 million. We did not appeal, and received no payment.
In re HP Laserjet Printer Litigation, Case No. 8:07-cv-00667-AG-RNB (C.D. Cal) (*pro se* objector)	The trial court approved the settlement, while lowering the attorneys' fees from $2.75M to $2M. We did not appeal, and received no payment.
In re New Motor Vehicles Canadian Export Antitrust Litigation, No. MDL 03-1532 (D. Me.) (I was objector represented by CCAF counsel Dan Greenberg)	The trial court agreed with my objection that the *cy pres* was inappropriate, and the parties modified the settlement to augment class recovery by $500,000. The court affirmed the fee request, but awarded CCAF about $20,000 in fees.
Sobel v. Hertz Corp., No. 06-cv-545 (D. Nev.) (CCAF attorney Dan Greenberg)	The district court agreed with our objection and refused to approve the coupon settlement. The parties litigated, and the district court granted partial summary judgment in the amount of $45 million, and awarded CCAF fees of $90,000. The case is pending on appeal, and CCAF has not yet been paid.
Cobell v. Salazar, Case No. 1:96-cv-1285 (TFH) (D.D.C.)	The district court approved the settlement, but reduced the requested fees from $224 million to $99 million, and reduced the proposed incentive award by several million dollars, creating over $130 million of additional benefit to the class. On appeal, the D.C. Circuit affirmed the settlement approval. 679 F.3d 909. CCAF's client retained other counsel and petitioned the Supreme Court to hear the case. The Supreme Court denied the writ of certiorari. We received no payment.
Stetson v. West Publishing, Case No. CV-08-00810-R (C.D. Cal.) (CCAF attorney Dan Greenberg)	The district court sustained our objection and rejected the coupon settlement. The parties proposed a modified settlement that improved class recovery by several million dollars. We did not object to the new settlement, and neither sought nor received payment.

Case	Result
McDonough v. Toys "R" Us and *Elliott v. Toys "R" Us*, Case Nos. 2:06-cv-00242-AB, No. 2:09-cv-06151-AB (E.D. Pa.)	The district court approved the settlement and fee request. CCAF appealed, and the Third Circuit vacated the settlement approval and fee award. *In re Baby Prods Antitrust Litig.*, 708 F.3d 163 (3d Cir. 2013). On remand, the parties negotiated an improved settlement that improved class recovery by about $15 million. We did not object to the settlement but objected to the renewed fee request. The district court awarded CCAF $742,500 in fees and reduced class counsel's fees by the same amount. CCAF appealed, but voluntarily dismissed the appeal without receiving any payment beyond what was ordered by the court.
Trombley v. National City Bank, Case No. 10-cv-232 (JDB) (D.D.C.)	We objected to an excessive fee request of ~$3000/hour for every partner, associate, and paralegal in a case that settled in a reverse auction shortly after a complaint was filed; we further objected to an arbitrary allocation process that prejudiced some class members at the expense of others. The district court approved the settlement and fee request. CCAF did not appeal, and received no payment. Later, CCAF won appeals in the Third and Seventh Circuits on some of the issues we raised in this case.
Blessing v. Sirius XM Radio Inc., Case No. 09-cv-10035 (S.D.N.Y.)	The district court approved the settlement and fee request, and the Second Circuit affirmed in an unpublished order. CCAF petitioned for *certiorari*. The Supreme Court denied *certiorari*, but Justice Alito wrote separately to indicate that, while *certiorari* was inappropriate, the Second Circuit erred in holding CCAF's client did not have standing to challenge the improper class counsel appointment. *Martin v. Blessing,* 134 S. Ct. 402 (2013).
Weeks v. Kellogg Co., Case No. CV-09-08102 (MMM) (RZx) (C.D. Cal.) (CCAF attorney Dan Greenberg)	The district court sustained CCAF's objection and refused settlement approval. The parties modified the settlement to largely address CCAF's concerns, creating extra pecuniary benefit to the class. The Center sought and was awarded attorneys' fees as a percentage of the benefit conferred, and received no other payment beyond that awarded by the court.
In re Dry Max Pampers Litig., Case No. 1:10-cv-00301 TSB (S.D. Ohio)	The district court approved the settlement and fee request. On appeal, the Sixth Circuit vacated both orders. 724 F.3d 713 (6th Cir. 2013). On remand, plaintiffs dismissed the meritless litigation, benefiting the class that would not have to pay the higher costs from abusive litigation. We received no payment.
In re Mutual Funds Investment Litig., No. 04-md-15862 (D. Md.)	The trial court approved the settlement and fee award. CCAF did not appeal, and received no payment.

Case	Result
Barber Auto Sales, Inc. v. UPS, No. 5:06-cv-04686-IPJ (N.D. Ala.) (CCAF attorney Dan Greenberg)	The trial court approved the settlement and fee award. CCAF did not appeal, and received no payment.
Brazil v. Dell, No. C-07-1700 RMW (N.D. Cal.) (CCAF attorney Dan Greenberg)	The trial court approved the settlement and fee award. CCAF appealed. After CCAF filed its opening brief in the Ninth Circuit, the trial court modified its opinion approving the settlement and fee award. CCAF chose to voluntarily dismiss its appeal and received no payment.
Fogel v. Farmers, No. BC300142 (Super. Ct. Cal. L.A. County)	The trial court approved the settlement and reduced the fees from $90M to $72M. The Center was awarded fees and expenses for its objection, and did not appeal, and received no payment beyond what the court ordered.
Walker v. Frontier Oil, No. 2011-11451 (Harris Cty. Dist. Ct. Tex.)	The trial court approved the settlement and fee award. On appeal, the Texas Court of Appeals agreed that the $612,500 fee award violated Texas law, saving shareholders $612,500. *Kazman v. Frontier Oil,* 398 SW 3d 377 (Tex. App. 2013).
In re MagSafe Apple Power Adapter Litig., No. C. 09-1911 JW (N.D. Cal.)	We objected on behalf of law professor Marie Newhouse. The trial court approved the settlement and fee award. On appeal, the Ninth Circuit in an unpublished decision vacated both orders and remanded for further proceedings. The Center renewed its objection and the district court approved the settlement but reduced fees from $3 million to $1.76 million. We did not appeal, and received no payment.
In re Online DVD Rental Antitrust Litig., No 4:09-md-2029 PJH (N.D. Cal.)	I was the objector. The district court approved the settlement and fee award, and the Ninth Circuit affirmed in an appeal I briefed and argued. 779 F.3d 934 (9th Cir. 2015). On remand, class counsel attempted to distribute over $2 million to *cy pres*. I objected to the *cy pres* proposal, and the court agreed with my objection and ordered distribution to the class. We did not seek attorneys' fees.
In re Nutella Marketing and Sales Practices Litig., No 11-1086 (FLW)(DEA) (D. N.J.) (CCAF attorney Dan Greenberg)	The district court approved the settlement, but reduced the fee award by $2.5 million. We did not appeal, and received no payment.

Case	Result
In re Groupon, Inc., Marketing and Sales Practices Litig., No. 3:11-md-2238-DMS-RBB (S.D. Cal.) (pro se objection; separately retained in private capacity on appeal)	The district court sustained the objection to the settlement; the parties presented a materially identical settlement and the district court approved that settlement and fee award. I did not appeal and received no payment. Other objectors appealed. After briefing was complete, I was retained by one of the appellants in my private capacity to argue the appeal on a flat-fee basis, and the Ninth Circuit agreed with me in an unpublished order that the district court's settlement approval applied the wrong standard of law, and vacated and remanded. On remand, the parties proposed a new settlement, and I did not object.
In re Johnson & Johnson Derivative Litig., No. 10-cv-2033-FLW (D.N.J.)	The district court approved the settlement. CCAF appealed and successfully moved to stay the appeal while the fee request was litigated. The district court reduced the fee request from $10.45 million to about $5.8 million, saving shareholders over $4.6 million. CCAF voluntarily dismissed its appeal, and received no payment.
Pecover v. Electronic Arts Inc., No. C 08-02820 CW (N.D. Cal.) (I objected, represented by CCAF attorney Melissa Holyoak)	The district court honored our objection to the excessive *cy pres* and encouraged modifications to the settlement that addressed my objection. As a result of the Center's successful objection, the class recovery improved from $2.2 million to $13.7 million, an improvement of over $11.5 million. The Center did not appeal the decision. The district court awarded $33,975 in attorneys' fees to the Center. The Center received no payment not ordered by the Court.
In re EasySaver Rewards Litigation, No. 3:09-cv-2094-AJB (WVG), No. 3:09-cv-2094-BAS (S.D. Cal.)	The district court approved the settlement and the fee request. On appeal, the Ninth Circuit vacated the settlement approval and remanded for further consideration. We renewed our objection, and the district court approved the settlement and fee request again. Our appeal is pending.
In re Citigroup Inc. Securities Litigation, No. 07 Civ. 9901 (SHS) (S.D.N.Y.) (*pro se* objection; then represented by CCAF attorneys)	The parties agreed to correct the defective notice. Upon new notice, I restricted my objection to the excessive fee request. The district court agreed to reduce the fee request (and thus increase the class benefit) by $26.7 million. 965 F. Supp. 2d 369 (S.D.N.Y. 2013). I was awarded costs. I appealed the fee decision, but voluntarily dismissed my appeal without further payment. My objection to the *cy pres* proposal was overruled; I won a stay of the *cy pres* order and appealed. While the appeal was pending, in 2017, class counsel agreed to distribute the proposed *cy pres* to the class. Our request for attorneys' fees is pending.

Case	Result
City of Livonia Employees' Retirement System v. Wyeth, No. 1:07-cv-10329 (RJS) (S.D.N.Y.)	The district court approved the settlement and reduced fees (and thus increased class benefit) by $3,037,500. Though the court ultimately agreed in part with our objection to fees, it was critical of our objection, though it mischaracterized the argument we made. The district court criticized the objection as "frivolous" but the First Circuit recently held in a non-CCAF case that the issue of a minimum distribution threshold does indeed make a settlement problematic. We did not appeal, and received no payment.
In re Bayer Corp. Combination Aspirin Prods. Mktg. and Sales Practices Litig., No. 09-md-2023 (BMC) (JMA) (E.D.N.Y.) (I objected, represented by CCAF attorney Adam Schulman)	Upon my objection, the parties modified the settlement to provide for direct distribution to about a million class members, increasing class recovery from about $0.5 million to about $5 million. The district court agreed with my objection to one of the *cy pres* recipients, but otherwise approved the settlement and the fee request. CCAF was awarded attorneys' fees. I did not appeal, and neither I nor CCAF received any payment not awarded by the court.
In re Southwest Airlines Voucher Litig., No. 11-cv-8176 (N.D. Ill.)	The district court approved the settlement, but reduced fees by $1.67 million. We appealed, and the plaintiffs have cross-appealed; the Seventh Circuit affirmed, but reduced fees further. On remand, class counsel asserted rights to additional fees, and we objected again. The court denied the fee request in part, and, on motion for reconsideration, vacated the fee order on the grounds notice was required. We negotiated a settlement that tripled relief to the class. We intend to move for attorneys' fees.
Fraley v. Facebook, Inc., No. 11-cv-01726 (RS) (N.D. Cal.) (*pro se* objection)	The district court approved the settlement, which was modified after our objection by increasing class distributions by 50%. The district court further reduced fees by $2.8 million, which increased the *cy pres* distribution by the same amount. We did not appeal the settlement approval or fee award, and did not receive any payment. Our request for attorneys' fees was denied, and our appeal of that decision was denied. We did not seek *certiorari*.

Case	Result
Pearson v. NBTY, No. 11-CV-07972 (N.D. Ill) (I objected, represented by CCAF attorney Melissa Holyoak)	The district court approved the settlement, but reduced fees by $2.6 million. On appeal, the Seventh Circuit reversed the settlement approval, praising the work of the Center. 772 F.3d 778 (7th Cir. 2014). On remand, the settlement was modified to increase class recovery from $0.85 million to about $5.0 million. The second settlement was approved, and CCAF was awarded attorneys' fees of $180,000. Other objectors appealed; we cross-appealed to protect our rights. When the other objectors dismissed their appeals, we dismissed our cross-appeal without any payment beyond that ordered by the court. We moved the district court for relief requiring other objectors who received under-the-table payments to be required to disgorge those payments to the class, an action that was covered by the *Wall Street Journal*.
Marek v. Lane, 134 S. Ct. 8, 571 US – (2013).	In 2013 an objector retained the Center to petition the Supreme Court for a writ of *certiorari* from *Lane v. Facebook*., 696 F.3d 811 (9th Cir. 2012), *rehearing denied* 709 F.3d 791 (9th Cir. 2013), a case we had not previously been involved in. Although the Supreme Court declined to hear the case, Chief Justice Roberts wrote an opinion respecting denial of *certiorari* declaring the Court's interest in the issue of *cy pres* that has been influential in improving many settlements for class members.
Dennis v. Kellogg, Inc., No. 09-cv-01786 (IEG) (S.D. Cal.)	On remand from a Ninth Circuit decision, the district court approved a modified settlement and the fee request. CCAF did not appeal or receive any payment.
Berry v. LexisNexis., No. 11-cv-754 (JRS) (E.D. Va.) (CCAF attorney Adam Schulman *pro se*)	The district court approved the settlement and the fee request. The Fourth Circuit affirmed, and the Supreme Court denied *certiorari*.
In re BankAmerica Corp. Secs. Litig., No. 13-2620 (8th Cir.)	CCAF was retained as appellate counsel on behalf of a class representative objecting to a *cy pres* distribution and supplemental fee award, and prevailed. 775 F.3d 1060 (8th Cir. 2015). As a result, the class will receive an extra $2.6 to $2.7 million, plus any proceeds from pending collateral litigation against third parties.
Redman v. Radioshack Corp., No. 11-cv-6741 (N.D. Ill.)	The district court approved the settlement and the fee request. On appeal, the Seventh Circuit reversed, upholding our objection. 768 F.3d 622 (7th Cir. 2014). The case is pending on remand, but is presumably extinguished by RadioShack's bankruptcy. We were awarded costs.
Richardson v. L'Oreal USA, No. 13-cv-508-JDB (D.D.C.) (CCAF attorney Adam Schulman)	The district court sustained our objection to the settlement. 991 F. Supp. 2d 181 (D.D.C. 2013). We received no payment.

Case	Result
Gascho v. Global Fitness Holdings, LLC, No. 2:11-cv-436 (S.D. Ohio)	We represented law professor Josh Blackman. The district court approved the settlement and fee request. The Sixth Circuit affirmed in a 2-1 decision, and denied *en banc* review. The Supreme Court denied *certiorari*.
Steinfeld v. Discover Financial Services, No. 3:12-cv-01118-JSW (N.D. Cal.)	We withdrew the objection upon assurances from the parties about the interpretation of some ambiguous settlement terms. We received no payment.
In re Aetna UCR Litigation, No. 07-3541, MDL No. 2020 (D.N.J) (I was a *pro se* objector with assistance from local counsel)	While our objection was pending, the defendant invoked its right to withdraw from the settlement. The litigation is pending.
Poertner v. The Gillette Co., No. 6:12-cv-00803 (M.D. Fla.) (I objected, represented by CCAF attorney Adam Schulman)	The district court approved the settlement and the fee award, and the Eleventh Circuit affirmed in an unpublished order, and the Supreme Court denied *certiorari*.
In re Google Referrer Header Privacy Litigation, No. 10-cv-04809 (N.D. Cal.) (I was a *pro se* objector)	The district court approved the settlement and the fee award. The Ninth Circuit appeal is pending.
Delacruz v. CytoSport, Inc., No. 4:11-cv-03532-CW (N.D. Cal.) (I was a *pro se* objector)	I joined in part the *pro se* objection of William I. Chamberlain, my counsel in this case. The district court approved the settlement and the fee award. We did not appeal, and received no payment.
In re American Express Anti-Steering Rules Antitrust Litigation, No. 11-md-2221 (E.D.N.Y.)	We objected and the district court rejected the settlement. We have neither sought nor received payment.
In re Capital One Telephone Consumer Protection Act Litigation, 12-cv-10064 (N.D. Ill.)	Our objection was only to the fee request, and the district court agreed to a reduction of about $7 million in fees. We appealed seeking further reductions, but plaintiffs offered to pay our client $25,000 to dismiss his appeal, and he accepted the offer against our recommendation and his earlier promise to us. Ethics rules prohibited us from interfering with the client's decision. CCAF received no payment. Seventh Circuit law requires the court to investigate before granting a motion to voluntarily dismiss an appeal of a class action settlement approval, but no investigation was performed, despite extensive press coverage of our protest of class counsel's unethical behavior.

Case	Result
Lee v. Enterprise Leasing Company-West, LLC, No. 3:10-cv-00326 (D. Nev.) (CCAF attorney Melissa Holyoak)	The district court approved the settlement and the fee request. CCAF did not appeal, and received no payment.
Jackson v. Wells Fargo, No. 2:12-cv-01262-DSC (W.D. Pa.)	The district court approved the settlement and the fee request. CCAF did not appeal, and received no payment. CCAF attorney Adam Schulman represented the objector.
In re Transpacific Passenger Air Transp. Antitrust Litig., No. 3:07-cv-05634-CRB (N.D. Cal.)	The district court approved the settlement, but reduced the Rule 23(h) request for fees and expenses by over $5.1 million, for the benefit of the class. The district court awarded CCAF fees. Our appeal of the settlement approval (which, if successful, would nullify our fee award) is pending.
Careathers v. Red Bull N. Am., Inc., No. 1:13-cv-0369 (KPF) (S.D.N.Y.) (I objected, represented by CCAF attorney Erin Sheley)	The district court approved the settlement, but reduced the fee request by $1.2 million. We did not appeal, and received no payment.
In re Riverbed Securities Litigation, Consolidated C.A. No. 10484-VCG (Del. Ch.)	CCAF assisted *pro se* objector Sam Kazman. The court approved the settlement and reduced the fee request.
In re Target Corp. Customer Data Security Breach Litig., MDL No. 14-2522 (PAM/JJK) (D. Minn.)	The district court denied our objection. We successfully appealed to the Eighth Circuit, and a limited remand is pending.
In re Polyfoam Antitrust Litig., No. 10-MD-2196 (N.D. Ohio) (CCAF attorney Anna St. John)	We objected to the fees and the *cy pres* proposal, and the district court reduced fees and rejected plaintiffs' proposed *cy pres* recipient. We did not appeal and received no payment.
Hays v. Walgreen Co., No. 14-C-9786 (N.D. Ill.)	We objected to a $0 settlement that provided only worthless disclosures to the shareholder class. Our appeal in the Seventh Circuit was successful.
In re Subway Footlong Sandwich Mktg. & Sales Pract. Litig., No. 2:13-md-2439-LA (E.D. Wisc.)	I objected, represented by CEI attorney Adam Schulman. The district court approved the settlement and fee request over my objection. Our appeal in the Seventh Circuit is pending.

Case	Result
In re Colgate-Palmolive SoftSoap Antibacterial Hand Soap Mktg. & Sales Pract. Litig., No. 12-md-2320 (D.N.H.)	CEI attorney Anna St. John objected *pro se*. The district court approved the settlement and fee request over her objection. She filed an appeal to the *cy pres* provision of the settlement and dismissed the appeal without payment once the *cy pres* issue became moot.
Doe v. Twitter, Inc., No. CGC-10-503630 (Cal. Sup. Ct. S.F. Cty.)	The district court approved the settlement over our objection, but reduced attorneys' fees. We did not appeal and received no payment.
Rodriguez v. It's Just Lunch Int'l, No. 07-cv-9227 (SHS)(SN) (S.D.N.Y.)	CEI attorney Anna St. John successfully objected to an abusive settlement. The litigation is pending
Rougvie v. Ascena Retail Group, No. 15-cv-724 (E.D. Pa.)	CEI attorney Adam Schulman appeared on behalf of two objectors; the parties modified the settlement in part, and district court agreed with our objection that CAFA applied and governed attorneys' fees. We did not appeal, but other objectors appealed. The appeals were voluntarily dismissed recently, and we plan collateral litigation to recover any improperly paid moneys to the objectors for the class. We have previously obtained an order from the district court continuing the deadline for seeking attorneys' fees, and we may do so if it turns out that there was a material pecuniary benefit to the class from our actions.
Allen v. Similasan Corp., No. 3:12-cv-0376-BAS (JLB) (S.D. Cal.)	CEI's objection on behalf of an objector to a $0 settlement was upheld. The parties negotiated a new settlement proposing to pay about $500,000 to the class. We will not object to the new settlement, and are evaluating whether to seek attorneys' fees.
In re PEPCO Holdings, Inc., Stockholder Litig., C.A. No. 9600-VCMR (Del. Ch.)	In response to our proposed objection on *Walgreen* grounds, class counsel voluntarily dismissed the lawsuit and proposed settlement, saving the shareholders a substantial amount of money. We were awarded attorneys' fees by the Court.
In re Pharmacyclics, Inc. Shareholder Litig., No. 1-15-CV-278055 (Santa Clara County, Cal.)	Professor Sean J. Griffith, an objector with an unsuccessful objection to a $0 shareholder settlement, retained CEI for the appeal, which is pending.
Williamson v. McAfee, Inc., No. 5:14-cv-00158-EJD (N.D. Cal.)	CEI attorney Anna St. John represented an objector. After we objected, the parties disclosed that the settlement claims rate was higher than we anticipated, and the district court approved the settlement. We did not appeal, and did not receive any payment.
Edwards v. National Milk Producers Fed'n, No. 11-cv-04766-JSW (N.D. Cal.)	CEI attorney Anna St. John represented an objector who objected to fees only. The objection is pending.

Case	Result
In re Google Inc. Cookie Placement Consumer Privacy Litig., No. 12-MD-2358 (D. Del.)	I objected in this case, represented by CEI attorney Adam Schulman. The district court overruled our objection to the settlement, but reduced attorneys' fees. Our appeal to the Third Circuit is pending.
Saska v. The Metropolitan Museum of Art, No. 650775/2013 (Sup. Ct. N.Y. Cty., N.Y.)	CEI attorney Anna St. John objected *pro se*. The objection is pending.
Birbrower v. Quorn Foods, Inc., No. 2:16-cv-01346-DMG (AJW) (C.D. Cal.)	My objection on behalf of a class member is pending.
Aron v. Crestwood Midstream Partners L.P., No. 16-20742 (5th Cir.)	An unsuccessful *pro se* objector retained us to prosecute his appeal of approval of a $0 settlement where the court refused to follow *Walgreen*. Oral argument is scheduled for June 5.

21. As the chart shows, CEI and CCAF achieve success or partial success in the vast majority of their objections, and have won tens of millions of dollars for class members, as well as numerous landmark appeals. We regularly represent law professors in court, and have been appointed *amicus* in district court and appellate court proceedings where there was no adversary presentation.

22. We have informal agreements with another set of class members to file objections on their behalf in June in another case, and are in discussions with an objector to associate with existing counsel in a pending objection that was recently remanded.

23. In the six cases which I list below, I was retained in my private capacity to represent appellants or objectors in cases where CCAF did not have a client. In each case, my retainer was for a flat fee, and if the lead attorney or client chose to settle an appeal, I received no additional payment. I would only accept the work if I believed the appeal was meritorious. I have a 2-0 record in these cases where my clients chose to see the appeal through to its conclusion. One of these appeals was in the *Groupon* case in the 9th Circuit listed above.

Case	Result
Eubank v. Pella Corp., 753 F.3d 718 (7th Cir. 2014).	I was retained on a flat-fee basis for briefing and argument of the appeal. The Seventh Circuit reversed settlement approval and ordered the reinstatement of defrocked class representatives. I am not aware of the status of the case on remand and have not been involved since the rehearing petition was denied and mandate issued.

Case	Result
In re Toyota Motor Corp. Unintended Acceleration Litigation, Nos. 13-56458 (L), 13-56468 (9th Cir.)	I was retained on a flat-fee basis to participate in the appeal and assist with the successful opposition to a motion for an appeal bond. The objecting client chose to voluntarily dismiss his appeal in response to a settlement offer, and I withdrew from representation before the dismissal. I received no payment from the plaintiffs or defendants. I believe the appeal was meritorious, and the arguments that I planned to make on behalf of the objector were later adopted by the Eighth Circuit in *BankAmerica Corp.*
In re Deepwater Horizon Economic and Property Settlement Appeals (No. 13-30095) and *In re Deepwater Horizon Medical Settlement Appeals* (No. 13-30221) (5th Cir.)	I was retained by counsel for five appellants on a flat-fee basis while the appeals were pending. After oral argument in 13-30095 and after briefing in 13-30221, three of the appellants retained new counsel who voluntarily dismissed their appeals; I do not know what deal they made, and I received no payment. The two remaining appellants chose to move to voluntarily dismiss their appeals without recompense. I received no payment from the plaintiffs or defendants or objectors. I believe the appeals were meritorious, and many of the arguments I made in the briefing were adopted by the Seventh Circuit in *Eubank*.
In re CertainTeed Fiber Cement (No. 14-1882) (3d Cir.)	I was retained on a flat-fee basis to work on the appeal after assisting counsel for the objector in the district court on an hourly basis. (In response to the district-court objection, the parties modified the settlement to bar reversion to the defendant, which was worth some amount of money to the class, but the district court denied a motion for attorneys' fees for the objector.) As cross-motions were pending in the Third Circuit, the parties settled, and I withdrew from representation, and the objectors dismissed their appeal. I received no payment from the plaintiffs or defendants. I believe the appeal was meritorious because the district court failed to comply with *Baby Products Antitrust Litigation*'s requirement to determine the actual payment to the class. The settlement approved by the district court was akin to that rejected by the Seventh Circuit in *Eubank*.
Fladell v. Wells Fargo Bank, No. 13-cv-60721 (S.D. Fla.)	I was retained on an hourly-fee basis to provide a draft objection to the attorneys for a pair of objectors, and then a declaration in support of the objection. After I submitted the declaration, a current CCAF client contacted me and suggested that I had a conflict of interest, and asked me to withdraw from the *Fladell* case. I disagreed that there was a conflict of interest, but received permission to withdraw to avoid any collateral dispute with my clients, and waived my hourly fee. I believe the objection was meritorious, and the district court's decision approving the settlement and overruling objections without determining actual benefit to the class contradicted *In re Baby Products* and *Pearson v. NBTY*, among other decisions. I did not participate in the appeal, and did not receive any money from its settlement.

Case	Result
In re Groupon, Inc., Marketing and Sales Practices Litig., No. 3:11-md-2238-DMS-RBB (S.D. Cal.)	Discussed above. After appellate briefing was complete, I was retained by one of the appellants in my private capacity to argue the appeal on a flat-fee basis, and the Ninth Circuit agreed with me in an unpublished order that the district court's settlement approval applied the wrong standard of law, and vacated and remanded.

24. There were several other cases where CCAF did not have a client where I consulted in my private capacity with attorneys representing objecting class members in cases about legal strategy for objections on an hourly basis or flat-fee basis, sometimes providing draft objections or outlines or draft briefs or draft responses to motions for appeal bonds or sanctions, sometimes providing copies of relevant public filings I had previously made, sometimes recommending that no objection be pursued. Because I did not file an objection as either counsel or objector in those cases, because I had no attorney-client relationship with the objector, because I was not the ultimate legal decisionmaker in those cases, because the ultimate legal decisionmaker in those cases did not always follow my advice or keep me apprised of the status of the case, because I withdrew from continued participation in several pending cases in June 2015, and because of contractual confidentiality obligations, I do not list them in this declaration. I similarly do not list numerous cases where objectors or attorneys or settling parties or experts have discussed pending settlements, client representations, objections, appeals, or collateral litigation with me and/or I have provided copies of public CCAF and CEI filings as a favor without payment or creating an attorney-client relationship.

25. I no longer accept paid representation in such cases in my private capacity with attorneys who have a track record of dismissing appeals because CEI plans to engage in litigation to create precedent requiring objectors and their counsel to equitably disgorge payments received without court approval for withdrawing objections or appeals, and I wanted to avoid conflicts of interest while the Center engaged in such litigation. I note that it would be simple enough for the settling parties to stipulate to settlement procedures definitively deterring bad-faith objectors by including an order forbidding payment to objectors without disclosure and court approval. Instead they have imposed abusively burdensome requirements on objection that will do little to deter bad-faith objectors while forcing attorneys for good-faith objectors to waste dozens of hours. Both CEI and I have expressed a willingness to be bound by an injunction barring us from settling this objection

for payment without court approval if there is any doubt as to our good-faith intentions in objection to an unfair settlement and fee request.

26. A website purporting to list other cases where I acted as an attorney or objector is inaccurate, listing me in several cases where I had no role, made no appearances, and had no attorney-client relationship with the objector, and falsely attributing to me filings I had nothing to do with. The website is further inaccurate in omitting dozens of my successful objections, falsely characterizing successful objections as having been overruled entirely, and misrepresenting the substance of court filings and testimony.

27. A number of objectors I have no affiliation with have filed briefs plagiarizing my work or CCAF's work in other cases without consulting with me. At least one objector has incorrectly represented to a court that I have agreed to represent him before a retainer agreement was signed.

28. CEI pays me on a salary basis that does not vary with the result in any case. I do not receive a contingent bonus based on success in any case, a structure that would be contrary to I.R.S. restrictions.

29. In my experience, class counsel responds to Center objections by making a variety of *ad hominem* attacks. In an effort to anticipate them and to avoid collateral litigation over a right to file a reply, I discuss and refute the most common ones below,

30. CCAF refuses to engage in *quid pro quo* settlements, and has never withdrawn an objection in exchange for payment. Instead, it is funded entirely through charitable donations and court-awarded attorneys' fees. The difference between a so-called "professional objector" and a public-interest objector is a material one. As the federal rules are currently set up, "professional objectors" have an incentive to file objections regardless of the merits of the settlement or the objection. In contrast, a public-interest objector such as myself has to triage dozens of requests for *pro bono* representation and dozens of unfair class action settlements, loses money on every losing objection (and most winning objections) brought, can only raise charitable donations necessary to remain afloat by demonstrating success, and has no interest in wasting limited resources and time on a "baseless objection." CCAF objects to only a small fraction of the number of unfair class action settlements it sees; indeed, I personally object to only a fraction of the number of unfair class action settlements where I am a class member. (While one district court called me a "professional objector" in the broader sense, that court stated that it was not meant pejoratively, and awarded CCAF fees for a successful objection and

appeal that improved the settlement for the class. *Dewey v. Volkswagen*, 909 F. Supp. 2d 373, 396 n.24 (D.N.J. 2012).) CEI's opposition to professional objectors has been demonstrated by the litigation we have engaged in to win disgorgement of *quid pro quo* payments for the benefit of the class. *See* Jacob Gershman, *Lawsuits Allege Objector Blackmail in Class Action Litigation*, Wall St. J., Dec. 7, 2016.

31. CCAF has no interest in pursuing "baseless objections," because every objection we bring on behalf of a class member has the opportunity cost of not having time to pursue a meritorious objection in another case. We are confronted with many more opportunities to object (or appeal erroneous settlement approvals) than we have resources to use, and make painful decisions several times a year picking and choosing which cases to pursue, and even which issues to pursue within the case. CCAF turns down the opportunity to represent class members wishing to object to settlements or fees when CCAF believes the underlying settlement or fee request is relatively fair.

32. Neither CCAF nor CEI has an "ideological crusade against class actions" as boilerplate accuses us of. As a child, I admired Ralph Nader and consumer reporter Marvin Zindler (whose autographed photo was one of my prized childhood possessions), and read every issue of *Consumer Reports* from cover to cover. I have focused my practice on conflicts of interest in class actions because, among other reasons, I saw a need to protect consumers that no one else was filling, and as a way to fulfill my childhood dream of being a consumer advocate. I have publicly stated my support for the class-action mechanism as a means of aggregating litigation of similarly situated class members, including in multiple declarations under oath, and in a nationally-broadcast C-SPAN panel discussing CCAF's work. On multiple occasions, successful objections brought by CCAF have resulted in new class-action settlements where the defendants pay substantially more money to the plaintiff class without CCAF objecting to the revised settlement. Indeed, I am a class representative in a pending putative class action brought by a prominent plaintiffs' attorney in the Eastern District of Missouri.

33. The *Lonardo* decision mentioned above made a snide comment about one of the arguments I made on behalf of a client, and class counsel often quotes it out of context to accuse CCAF of making baseless objections. But CCAF was ultimately successful in the Seventh and Ninth Circuits on the single argument *Lonardo* criticized as supposedly "short on law." Even if *Lonardo* was correct in 2010 that CCAF's policy-based

argument was "short on law," it is no longer correct after *Bluetooth* and *Pearson* agreed that reversionary clauses are a problematic sign of self-dealing.

34. Prior to its merger with CEI, the Center never took or solicited money from corporate donors other than court-awarded attorneys' fees. CEI, which is much larger than the Center, does take a percentage of its donations from corporate donors. As part of the merger agreement, I negotiated a commitment that CEI would not permit donors to interfere with CCAF's case selection or case management. In the event of a breach of this commitment, I am permitted to treat the breach as a constructive discharge entitling me to substantial severance pay. CEI has honored that commitment.

35. None of the corporate donors to CEI have earmarked contributions to CCAF. I am unaware of whether there exist any corporate donors to CEI who take a position on the underlying litigation in this case, though it is possible one exists.

36. For example, I am personally the objector-appellant in a pending Ninth Circuit appeal against the *cy pres* settlement of a corporate donor to CEI who has contributed substantially to CEI. No one at CEI has complained that I am currently prosecuting that appeal against the donor, sought to interfere with the pending appeal, or even told me that I was adverse to the donor. I only discovered that information by happenstance when looking at the corporate donor's website.

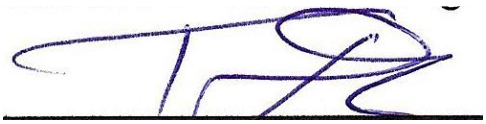
37. Similarly, CEI represented an objector to the massive Volkswagen diesel MDL settlement, arguing that the settlement structure short-changed class members by hundreds of millions of dollars. I learned only after a plaintiffs' attorney opposed our motion for leave to file an amicus brief in that case that Volkswagen had previously donated to CEI. No one at CEI had told me Volkswagen was a donor, or asked me to refrain from litigating against the donor's interests.

38. My understanding is that CEI's litigation history includes several lawsuits against the interests of some of its corporate donors. Based on this and based on my own experience working at CEI since 2015, I have every confidence that CCAF will continue to have the autonomy for which I negotiated.

39. CEI has dozens of scholars who take a variety of controversial positions. I don't agree with all of those positions, and they should not be ascribed to me or this objection, any more than my support for a Pigouvian carbon tax should be ascribed to CEI scholars who oppose such a measure.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 27, 2017, in Washington, DC.



Theodore H. Frank

PROOF OF SERVICE

I hereby certify that on this day I electronically filed the foregoing Declaration using the CM/ECF filing system thus effectuating service of such filing on all ECF registered attorneys in this case.

DATED this 2nd day of May, 2017.

/s/William I. Chamberlain
William I. Chamberlain

Pursuant to the Preliminary Approval Order (Dkt. 151) and the long-form notice to the class, I hereby certify that on this day I caused service of the forgoing on the following party by first class mail, postmarked as of this date:

Kumar v. Salov Claim Administer
c/o Heffler Claims Group
P.O. Box 58476
Philadelphia, PA 19102-8476

DATED this 2nd day of May, 2017.

/s/William I. Chamberlain
William I. Chamberlain